

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

WARNER CHILCOTT SALES (US), LLC; :
 WARNER CHILCOTT (US), LLC; WARNER :
 CHILCOTT PUBLIC LIMITED COMPANY; :
 WARNER CHILCOTT COMPANY, LLC : **PETITION TO ENFORCE SUBPOENA**
 F/K/A WARNER CHILCOTT COMPANY, :
 INC.; WARNER CHILCOTT : CIVIL CASE NO.:
 LABORATORIES IRELAND LIMITED; :
 WARNER CHILCOTT HOLDINGS :
 COMPANY III, LTD.; WARNER CHILCOTT : Related Pending Matter:
 CORPORATION; and WATSON : MDL No. 2472
 LABORATORIES, INC. : C.A. No. 1:13-md-2472-S
 : (Pending in the District of Rhode Island)
 Petitioners, :
 vs. : **ORAL ARGUMENT REQUESTED**
 :
 JANSSEN PHARMACEUTICALS, INC. :
 :
 Respondent. :

**PETITION TO ENFORCE SUBPOENAS ISSUED BY THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND
AND COMPEL THIRD-PARTY JANSSEN
PHARMACEUTICALS, INC. TO PROVIDE DEPOSITION TESTIMONY**

Pursuant to Federal Rules of Civil Procedure 34, 37, and 45, and District of New Jersey Local Rule 7.1, Petitioners Warner Chilcott Sales (US), LLC; Warner Chilcott (US), LLC; Warner Chilcott Public Limited Company; Warner Chilcott Company, LLC f/k/a Warner Chilcott Company, Inc.; Warner Chilcott Laboratories Ireland Limited; Warner Chilcott Holdings Company III, Ltd.; Warner Chilcott Corporation; and Watson Laboratories, Inc. (collectively, herein, “Petitioners”) hereby move this Court for an Order compelling third-party Janssen Pharmaceuticals, Inc. (“Respondent” or “Janssen”) to appear for a deposition in accordance with the subpoena, dated September 29, 2017. The grounds for this Petition are set

forth in Petitioners' Motion to Enforce Subpoenas Issued by the United States District Court for the District of Rhode Island and Compel Third-Party Janssen Pharmaceuticals, Inc. to Provide Deposition Testimony, and its accompanying Memorandum in Support and exhibits and attachments thereto, which are being filed contemporaneously herewith. Petitioners aver as follows:

Parties

1. Petitioners are Warner Chilcott Sales (US), LLC; Warner Chilcott (US), LLC; Warner Chilcott Public Limited Company; Warner Chilcott Company, LLC f/k/a Warner Chilcott Company, Inc.; Warner Chilcott Laboratories Ireland Limited; Warner Chilcott Holdings Company III, Ltd.; Warner Chilcott Corporation; and Watson Laboratories, Inc.

2. Respondent is Janssen Pharmaceuticals, Inc., 1125 Trenton-Harbourton Road, Titusville, NJ 08560. Respondent transacts business and maintains its principal place of business within this judicial district and the Trenton Division.

Jurisdiction and Venue

3. This Court has jurisdiction over this action because federal courts have jurisdiction to enforce subpoenas arising from lawsuits pending in United States District Courts.

4. Venue is also proper because this is an action to enforce a subpoena that was issued in the District of Rhode Island, and Respondent transacts business and maintains its principal place of business within this judicial district and division. *See* Federal Rules of Civil Procedure 37(a)(2) and 45(c). Attached is a true and correct copy of the subpoena, dated September 29, 2017. *See* **Exhibit A**.

Factual Background

5. Janssen manufactures and sells oral contraceptives Ortho Tri-Cyclen, Ortho Tri-Cyclen Lo, Ortho Cyclen, and Ortho-Cept (the “Janssen Products”). The Janssen Products and the Loestrin 24 Products¹ at issue in this litigation share the same estrogen active ingredient (ethinyl estradiol), are orally administered, and are prescribed primarily for the prevention of pregnancy. Defendants intend to prove that the Janssen Products are part of the larger market for oral contraceptives and compete head-to-head with Defendants’ Loestrin 24 Products—crucial evidence that Defendants exercise no antitrust market power. To prove these facts, Defendants served discovery subpoenas on Janssen requesting documents and deposition testimony showing that these products compete in the marketplace, and how.

Issuance and Service of the Subpoena

6. The United States District Court for the District of Rhode Island issued a Subpoena to Testify at a Deposition in a Civil Action, dated September 29, 2017. *See* Exhibit A.

7. Despite multiple attempts to meet and confer on the Subpoena, and the scope of deposition testimony, the parties have been unable to reach an agreement.

Grounds for Relief

8. The Subpoena is proper in all respects and Respondent has not presented a valid basis to refuse to comply with the Subpoena.

9. No prior application for this relief has been sought.

WHEREFORE, Petitioners respectfully request enforcement of the Subpoena and an Order requiring Respondent to produce deposition testimony on the following topics: (a) Janssen’s strategies to market, price, and sell the Janssen Products; (b) Janssen’s efforts to

¹ Defendants’ products are Loestrin 24 Fe and Minastrin 24 Fe (the “Loestrin 24 Products”).

compete against the Loestrin 24 Products, including by offering rebates, coupons, and patient assistance programs; (c) Janssen's advertising and sales force training materials for the Janssen Products; (d) Janssen's rebate agreements for the Janssen Products; and (e) the authenticity of the documents Janssen produces.

LOCAL CIVIL RULE 11.2 CERTIFICATION

This discovery dispute relates to antitrust litigation pending in the District of Rhode Island captioned *In re Loestrin 24 Fe Antitrust Litigation*, MDL No. 2472, C.A. No. 1:13-md-2472-S (D.R.I.), but this dispute has not been submitted to the District of Rhode Island for determination. I certify under penalty of perjury that the foregoing statement is true and correct.

Executed on April 20, 2018

s/ Michael Gallagher
Michael Gallagher (No. 043951993)

Dated: April 20, 2018

Respectfully submitted,

s/ Michael Gallagher
Michael Gallagher (No. 043951993)
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Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2018, this Petition was filed and served: (1) on all counsel of record using the CM/ECF system; (2) via e-mail on Janssen pursuant to an agreement with counsel for Janssen; and (3) via e-mail on all counsel of record in *In re Loestrin 24 Fe Antitrust Litig.*, No. 1:13-md-2472-WES-PAS (D.R.I.).

s/ Michael Gallagher
Michael Gallagher (No. 043951993)